WP(C) 6180/2006

BEFORE

THE HON'BLE SMTI JUSTICE A.HAZARIKA

Heard Mr.K.K.Phukan learned counsel for the petitioner. Also heard Ms.M. Gogoi learned Standing Counsel Education Department.

By this petition the petitioner has prayed for a direction to the authorities to make payment of arrear monthly salary for the period from 1.6.94 to 31.7.99.

The petitioner was appointed as Assistant Teacher in Sidalsati M.E.School on 12th March,1994 as per provisions under Rule 5 of Assam Public Service (Appointment of Family Members of persons Killed by Extremists/Terrorists) Rules, 1992. The petitioner's father Sri Ananta Dev Medhi was killed by ULFA Extremists /Terrorist on 20.11.91 and therefore , in view of the aforesaid Rules 1992 she was appointed as Assistant Teacher in the scale of pay of Rs. 1185/- to 2395/- per month plus other allowances as admissible under the Govt. rules vide Memo No. Apptt/10810-14 dated Bongaigaon 11.3.94 issued by the District Elementary Education Officer, Bongaigaon. Pursuant to the afore said appointment order she joined in the post on 12th March, 1994 and has been working continuously without break till date to the satisfaction of the authorities concerned. She has not been paid monthly salary from June, 1994 to July 1999 though she was working continuously without break as Assistant Teacher in the said school. To that effect she has submitted numbers of representations before the concerned authority but same evoked no response. Hence, the instant writ petition.

It is submitted by Mr.Phukan learned counsel appearing for petitioner that the service of the petitioner has subsequently been converted from Plan Head to Non-Plan Head w.e.f. 1.8.99 vide Government communication dated 5.8.99 issued by District Elementary Education Officer, Bongaigaon and since then, she has been paid her monthly salaries regularly till date except the salary for the month of June, 1994 to July,1999. Mr Phukan has brought to the notice of this Court the communication dated 19.2.97, whereby, the Secretary to the Government of Assam, Personnel(B) Department has requested the Director, Elementary Education , Assam, Kahilipara to take immediate necessary action for making payment of the arrear salary to the petitioner. Vide communication dated 18th September, 2003 the Block Elementary Education Officer, Bongaigaon, requested the District Elementary Education Officer, Bongaigaon to sanction Rs.2,06,244/-for payment of arrear monthly salary to the petitioner for the period from 1.6.94 to 31.7.99. But till date no steps has been taken for payment of the salary to the petitioner though she has been regularly paid salary from 1.8.99 till date.

Ms.Gogoi learned Standing Counsel has fairly submitted that in view of the statements made in the petitions as well as the communications referred to above shows that the petitioner is continuously serving in the school since her date of joining. Therefore, she is entitled for the arrear salary for the period she has served, inasmuch as, she has not been paid salary only for a specific period i.e. June, 1994 to July, 1999.

I have heard the learned counsel for the parties and perused the materials on record, more particularly in view of the annexures-8&9 of the writ petition, there is no doubt that the petitioner has not been paid salary for the period from 1.6.94 to 31.7.1999. Therefore, respondent No.2 i.e. Director Elementary Education , Kahilipara is directed to take up the matter of the petitioner for payment of arrear salary to the petitioner for the aforesaid period as per her entitlement, within a period of two months from the date of receipt of a certified copy of this order. The petitioner shall submit a certified copy of this order before respondents particularly respondent No.2 for doing the needful.

The writ petition is accordingly disposed of. There will be no order as to cost.